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**STUDY ON THE DESIRABILITY OF PREPARING AN  
INTERNATIONAL INSTRUMENT ON ACADEMIC FREEDOMS**

**SUMMARY**

The International Conference on Academic Freedom and University Autonomy, held in Sinaia (Romania) from 5 to 7 May 1992, adopted the 'Sinaia Statement', in which participants urged UNESCO 'to give the matter of academic freedom and university autonomy its utmost attention and to prepare an international instrument for the protection and promotion of these values'. In order to give effect to that recommendation, the Director-General has included the above-mentioned item 8.11 relating to the matter on the provisional agenda of the General Conference, and submits the present study. It contains an outline of the background to UNESCO's activities in this field, and a review of the options envisaged for protecting and promoting academic freedom and university autonomy.

Decision required: paragraph 34.

26 AUGUST 1993

## INTRODUCTION

1. UNESCO organized, in collaboration with the Council of Europe, with the Standing Conference of Rectors, Presidents and Vice-Chancellors of the European Universities (CRE), with the Romanian National Commission for UNESCO and with the Conference of Rectors of Romanian Universities, an International Conference on Academic Freedom and University Autonomy in Sinaia (Romania) from 5 to 7 May 1992. That Conference, which brought together some 180 rectors, academics, ministers and high-ranking officials in charge of education, as well as representatives of various intergovernmental organizations (IGOs) and non-governmental organizations (NGOs) concerned with higher education, adopted the 'Sinaia Statement' in which the participants urged UNESCO 'to give the matter of academic freedom and university autonomy its utmost attention and to prepare an international instrument for the protection and promotion of these values' (CEPES/UNESCO. Academic Freedom and University Autonomy: Proceedings of the International Conference. Bucharest, 1992, p. 5).
2. Participants in the Conference stressed the importance of 'the concepts of academic freedom and university autonomy as essential elements for the fulfilment of the mission of universities' (idem, p. 5), and expressed the opinion that 'violations of academic freedom and institutional autonomy have high costs in intellectual regression, social alienation and economic stagnation' (idem, p. 4).

## HISTORICAL BACKGROUND

3. The question of academic freedom has to date been the focus of relatively sustained attention on the part of the international academic community, generally, it should be said, with the assistance or the active participation of UNESCO. The Organization itself has done pioneering work in this field, since it refers to the issue in at least two standard-setting instruments, one of which concerns pre-university teachers and the other scientific researchers.
4. Indeed, as long ago as 1966 a special intergovernmental conference convened by UNESCO adopted the 'Recommendation concerning the Status of Teachers', prepared by the Organization in close collaboration with ILO. That Recommendation, which applies only to teachers up to the completion of the secondary stage of education, provides that 'the teaching profession should enjoy academic freedom in the discharge of professional duties' (Article 61). However, the Recommendation provides no more than vague indications as to what such academic freedom might be.
5. In 1974, the General Conference of UNESCO, at its eighteenth session, adopted the 'Recommendation on the Status of Scientific Researchers', which contains various provisions relating to freedom of research and freedom to disseminate research findings (cf. para. 4(b) of the Preamble, and Articles 8, 14, 34, 35 and 37). It thereby reaffirmed the provision contained in paragraph 3 of Article 15 of the International Covenant on Economic, Social and Cultural Rights which was adopted by the United Nations General Assembly in 1966 and entered into force in 1976, and which stipulates that the States 'undertake to respect the freedom indispensable for scientific research and creative activity'.
6. For their part, various non-governmental academic organizations, both national and international, representing all regions of the world, have concerned themselves with these questions, as part of the action to define the standards that should govern the status of teachers in higher education and the principles that should regulate the university system and the operation of its institutions.

7. Declarations relating to academic freedom and university autonomy adopted by non-governmental organizations include:

the 'Declaration on Rights and Duties Inherent in Academic Freedom', adopted by the International Association of University Professors and Lecturers (IAUPL) in Sienna, in 1982;

the 'Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education', adopted by the World University Service (WUS) in 1988;

the 'Magna Carta of European Universities', adopted by the Standing Conference of Rectors, Presidents and Vice-Chancellors of the European Universities (CRE) in Bologna in 1988;

the 'Dar es Salam Declaration on Academic Freedom and Social Responsibility of Academics', adopted by staff associations of higher education establishments in Tanzania in 1990;

the 'Kampala Declaration on Intellectual Freedom and Social Responsibility', adopted at a symposium held for that purpose by members of the African intellectual community in 1990.

8. Taken as a whole, these declarations reflect the concern of the academic community to develop principles, norms and practices designed to regulate higher education at the institutional, national and international levels, as well as the status of teachers and researchers at the higher level. This concern has increased considerably in recent years, and the need to deal with the matter at international level appears to be shared by the entire academic community throughout the world. This is borne out by the large number of declarations mentioned above. It reflects, on the one hand, a convergence of interests and opinions and, on the other, a dispersal of efforts. Hence the need to ensure co-ordination and follow-up in this field, both of which are of particular importance if the quality and relevance of higher education, the vitality of its institutions and the well-being of its members (teachers, researchers and students) are to be assured.

9. Acting in accordance with the ethical mission assigned to UNESCO by its Constitution, the Secretariat responded to the request formulated by non-governmental academic organizations to support their action by organizing the Sinaia Conference. In order to prepare for that Conference, the UNESCO Secretariat had, *inter alia*, organized jointly with the World University Service a seminar on the theme 'Factors and conditions conducive to academic freedom', which was held in Paris in May 1989. The Secretariat also took part in the Seminar on academic freedom organized by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, held in Lund in March 1992, and sponsored by UNESCO, the Standing Conference of Rectors, President and Vice-Chancellors of the European Universities, and the World University Service.

10. The Sinaia Statement was brought to the attention of participants in the UNESCO-NGO third Collective Consultation on higher education, held in Paris from 9 to 11 December 1992. The Consultation, which brought together 25 of the NGOs most representative of the academic world, took note with satisfaction of the actions taken or envisaged by UNESCO in this field. Participants engaged in a free-ranging discussion of the complex problems, with their multifarious implications, posed by academic freedom and university autonomy.

11. On the one hand, academic freedom is closely linked with human rights. This means that the possibility of developing an appropriate international instrument can be considered within that framework. On the other, the participants stressed that the autonomy of higher education institutions was vital to the unrestricted exercise of their academic freedom. Hence the need to explore these concepts in order to arrive at a clearer definition of their scope, the nature and interrelatedness of the rights that they imply, and the responsibilities resulting therefrom.

12. The numerous activities conducted by UNESCO in the higher education field represent important stages in the ongoing debate on these complex and difficult problems. This debate cannot lead on to concrete proposals without there being a broad consultation of representative organizations of the international academic community. Any initiative in this field must therefore be taken in close consultation and co-operation with the NGOs concerned with higher education, and must benefit from the active participation of the academic community as a whole.

13. Accordingly, as a follow-up to the Sinaia Conference, UNESCO took part in the seminar organized by the Poznan Human Rights Centre, which was held in that city in January 1993. The seminar brought together a small group of experts who took stock of the various standpoints and positions adopted on the subject, examined various options relating to the promotion and protection of academic freedom and university autonomy, and opted for a preliminary draft declaration to that effect.

14. The preliminary draft declaration adopted at the Poznan seminar was submitted for discussion to the International Congress on Education for Human Rights and Democracy organized by UNESCO and the United Nations Centre for Human Rights, in collaboration with the Canadian Commission for UNESCO, in Montreal, from 8 to 11 March 1993. The text was examined in the working commissions of the Congress, which stressed the need to improve it substantially, and made many proposals and suggestions to that end. The participants in the Congress confirmed the importance of adopting an international instrument on academic freedoms, took note of the discussions on the subject held in the working commissions, and decided to bring them to the attention of the Director-General of UNESCO as 'contributions to the preparation of a declaration on academic freedoms'. The document was also placed before the United Nations World Conference on Human Rights that took place in Vienna from 14 to 25 June 1993.

15. The above-mentioned activities, and the lengthy preparatory work undertaken on the issue, open up for UNESCO two potential - and, it should be stressed, complementary - courses of action regarding the promotion of academic freedom and university autonomy:

- (a) one approach focusing on the close relationship between *academic freedom* and *human rights*. It entails, on the one hand, co-ordinating UNESCO's action with that of the other agencies of the United Nations system (International Labour Organisation, Economic and Social Council, United Nations Centre for Human Rights, etc.) and, on the other, ensuring that it ties in with measures currently aimed at preparing an international standard-setting instrument on the status of teachers in higher education;
- (b) another approach, focusing on the interdependence of *academic freedom* and *university autonomy*, with the aim of preparing an appropriate document dealing with these two topics, as envisaged in the Sinaia Statement. This approach would require the Organization to take action jointly with the non-governmental

organizations concerned with higher education and with the international academic community to produce a document that reflects their own discussions and concerns and that possesses the authority and status conferred on it by the importance of the protagonists involved.

16. The second part of this study reviews the two approaches, and submits to the General Conference for its approval proposals for action or actions to be undertaken by the Secretariat.

#### **Action in regard to academic freedom**

17. The UNESCO Secretariat undertook a number of the measures mentioned above with an eye to the possibility that academic freedom might, by means of an appropriate United Nations instrument, be officially included among the human rights guaranteed by the Universal Declaration of Human Rights, having regard to the links between academic freedom and such fundamental rights, in particular that of freedom of expression.

18. Concomitantly, the Secretariat was called upon to examine the feasibility of protecting and promoting academic freedom through an instrument specific to UNESCO within the framework of the decisions taken by the Organization in regard to the status of higher education teachers.

19. In order to give effect to various resolutions adopted by the General Conference during the past ten years, the UNESCO Secretariat has carried out studies on the status of higher education teaching personnel (see document 27 C/41 submitted to the General Conference at its present session). The studies and reports produced by UNESCO or under its aegis all echo the statements made by the international organizations and authorities concerned to the effect that one of the key components of the status of higher education teaching personnel is precisely academic freedom, and that it is essential, particularly in this context, to define, promote and protect it more effectively.

20. In this regard, it should be noted that academic freedom has its roots in fundamental freedoms and rights, particularly freedom of expression. As such, it may therefore legitimately take its place among the fundamental freedoms that can be guaranteed either by a country's constitution or by its constitutional case law.

21. The fact nevertheless remains that this freedom derives its distinctive nature from the ultimate goals of higher education and from the specific calling of its institutions, namely, on the one hand, provision of higher training and the formation of critical acumen that such training implies and, on the other, the quest for truth through the deepening, broadening, advancement and dissemination of knowledge: in other words, the two inseparable functions of universities. Hence the need to regulate its protection through positive law provisions governing either education in general or higher education and universities in particular.

22. The NGOs concerned with the teaching profession consider it desirable that protection of the academic freedoms of this category of personnel should be assured through an international standard-setting instrument relating to the status of higher education teachers. The results of the in-depth study carried out by the Secretariat in that connection were presented under item 5.2.7 of the agenda of the 141st session of the Executive Board (May 1993), and are set forth in the document relating to item 8.4 of the provisional agenda (27 C/41) of the twenty-seventh session of the General Conference.

23. The decisions of the General Conference regarding a possible normative instrument concerning the status of higher education teaching personnel will determine the course that this work will take, following upon the measures already taken with a view to defining and protecting academic freedoms by means of such a regulatory instrument.

**Action to guarantee the autonomy of higher education institutions, in support of the efforts of the international academic community**

24. The preparation of a document determining the questions raised by academic freedom *jointly* with those relating to university autonomy is far more complex. The Secretariat considers that action in this field is the responsibility, first and foremost, of the international academic community, UNESCO's role being actively to support its efforts and to co-ordinate them with a view to drawing up a document that reflects as fully as possible the common denominators shared by all regions of the world.

25. Such an approach, complementing the action relating to the status of higher education teachers, must take account of the fact that the autonomy of higher education institutions has not, in certain regions of the world received as much attention as the matter of academic freedom. Recent political changes, particularly in Eastern Europe, and the drive towards greater democracy in several parts of the world, have nevertheless propelled this question to the forefront of the concerns of the academic community worldwide.

26. Although the reports submitted and the workshops organized in the context of the above-mentioned Conference on Academic Freedom and University Autonomy, held in Sinaia, have managed to dispel a number of misunderstandings regarding this concept, further, more detailed, study is called for.

27. There are indeed many pitfalls in this area, and meticulous work will be required in order to prevent, or at least to discourage, both undue dependence by higher education establishments on the State and on public authorities, and their transformation into institutions in which 'corporatist attitudes and abuses of privilege prevail' (Federico Mayor, Director-General of UNESCO: opening address to the Sinaia Conference).

28. To that end, in-depth studies should be undertaken in regard to:

- (a) spheres in which institutional autonomy can be exercised (that is, physical infrastructure, territorial immunity, training and research programmes, organization and management of human resources, financial and administrative affairs, etc.);
- (b) institutional authorities concerned with each of these spheres, and the composition of such bodies;
- (c) the extent of self-management that is necessary or desirable for each of these bodies; and
- (d) the relations between the institutional bodies and the public authorities.

29. In this context, in any projected position on the matter of university autonomy, close attention must be paid to identifying the machinery that can ensure both the institutions' autonomy and their viability. In addition, there must be a spirit of give-and-take and partnership between the higher education institutions and the societies in which they operate, through the intermediary of the competent authorities and bodies. That being the case, careful

attention must also be given to the legitimacy of establishing mechanisms to orient and monitor the relevance of curricula and efficacy in matters of management, as well as any other mechanism required to guarantee the accountability of such institutions.

30. Bearing in mind the many ramifications of the question of university autonomy, and its implications for academic freedom, it is clear that it is more difficult, and seemingly premature, to envisage adopting at present an international standard-setting instrument that might be acceptable to a majority of Member States. Adopting a position on this matter would entail working out nothing short of a political philosophy of higher education, its mission and its mode of organization in a free, democratic and dynamic society.

31. It is preferable for the Organization - should the General Conference choose this latter approach to future action in this regard - to focus its efforts and its intellectual and material resources on lending support to non-governmental organizations concerned with higher education and to the international academic community in order to prepare a document resulting from their own discussions, possibly in the form of a Declaration, which might set out, in as explicit and comprehensive a manner as possible, the concepts, principles and practices that are conducive to the protection and promotion of academic freedom and university autonomy.

32. Such a document could be adopted by an international meeting of representatives of the international academic community organized with the support of UNESCO. In this regard, it should be pointed out that, in the past, several declarations have been produced by meetings of a similar nature, as for example the Vancouver Declaration on Survival in the 21st century (1989), the Yamoussoukro Declaration on Peace in the Minds of Men (1989) or the Seville Statement on Violence (1986): declarations which, although not of a standard-setting nature, marked a step forward, and have played, and indeed continue to play, an active part in the affirmation of principles of action in UNESCO's priority fields of competence.

33. The activities provided for in UNESCO's Draft Programme and Budget for the 1994-1995 biennium (27 C/5, para. 05207) could encompass the start-up of the process entailed by this approach.

## CONCLUSION

34. The General Conference might, if it deemed it desirable, adopt a resolution worded as follows:

The General Conference,

Having examined the study submitted by the Director-General on the desirability of preparing an international instrument on academic freedoms,

Invites the Director-General to collaborate with NGOs concerned with higher education and with the international academic community and to support their efforts to undertake the studies required in order to draw up a document relating to academic freedoms, and the autonomy of higher education institutions within the framework of consultations or congresses organized for that purpose, and to prepare a report on the situation to be submitted to the General Conference at one of its forthcoming sessions.